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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,111	08/09/2001	Stephen Pegram	VIN-0547	2744
27777	7590	07/21/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			TADASSE, YEWEBDAR T	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

**Application No.**

09/925,111

**Applicant(s)**

PEGRAM ET AL.

**Examiner**

Yewebdar T Tadesse

**Art Unit**

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2004.
- 2a) ☒ This action is **FINAL**.
- 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 11-18 and 20-28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28 is/are allowed.
- 6) ☐ Claim(s) 1-8 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
  - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some \* c) ☐ None of:
    - 1. ☐ Certified copies of the priority documents have been received.
    - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

(1)

***Claim Rejections - 35 USC § 102***

The rejection of claims 1, 3-5, 11, 13, 15 and 16 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,786,444 to Hwang, as generally set forth in the office action mailed January 29, 2004, stands.

(2)

The rejection of claims 1, 7 and 8 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,658,602 to Martin et al., as generally set forth in the office action mailed January 29, 2004, stands.

(3)

The rejection of claims 11 and 18 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,658,602 to Martin et al., as generally set forth in the office action mailed January 29, 2004, stands.

(4)

The rejection of claims 2, 12 and 14 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,786,444 to Hwang in view of U.S. Patent No. 5,620,635 to DeRozier et al., as generally set forth in the office action mailed January 29, 2004, stands.

(5)

The rejection of claims 6 and 17 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,786,444 to Hwang in view of U.S. Patent No. 5,114,629 to Morland et al., as generally set forth in the office action mailed January 29, 2004, stands.

(6)

***Allowable Subject Matter***

Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-28 have been found to be allowable over the prior art of record.

(7)

The following is a statement of reasons for the indication of allowable subject matter:

Methods and apparatus for the assembly of a first and second mold parts having contact forming surfaces, such as taught by U.S. Patent Nos. 5,658,602 to Martin et al.; 5,620,635 to DeRozer et al.; 5,114,629 to Morland et al.; and 4,786,444 to Hwang, are known in the art. Although it is known, as suggested, for example, by Hwang, to constrain the movement of the lower molding member having the resin mixture applied thereto as the upper molding member is moved into contact, none of the prior art of record specifically teach or suggests such a method or apparatus as set forth in applicant claims 20, 22 and 26-28 wherein the rate of movement of the upper molding member is increased after a majority of the contact leans forming surface thereof has been wetted by the resin mixture. Regarding applicant claims 21 and 23-25, the prior art of record is also silent as to a methodology or apparatus capable of deactivating the constraining means of the lower mold half during a portion of travel of the upper molding means such as when the when the rate of movement of the upper molding member is increased.

(8)

***Response to Amendments and Arguments***

The amendments and arguments filed April 28, 2004 are acknowledged. In response to the amendments to applicant claims 7 and 8, the rejection of those claims under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, as set forth in the office action mailed January 29, 2004, has been withdrawn. The objection to the specification has also been withdrawn in view of the applicant's amendments thereto. In addition, newly added claims 20-28 have been indicated as allowable over the prior art of record as set forth and explained in sections (6) and (7), above.

Applicant's arguments have been fully considered but they are not persuasive. The applicant's main argument is that although the methods and apparatus of Hwang and Martin et al. utilize a means which can constrain the lateral and downward movement of the lower mold part, neither of those references disclose that the movement constraining means are capable of preventing the upward movement of the lower mold part towards the upper molding means as it is moved downwards into the resin pool. The examiner respectfully disagrees. Hwang, for example, discloses that the lower molding member 13 is held on the movement constraining

means 56 by, for example, friction, which maintains the lower molding member 13 in relation to the upper molding part 12 following an alignment step and prior to the application of the resin pool. As Hwang discloses that the alignment step provides a space between the molding parts 12,13 defining the shape and thickness of the optical article to be made (column 5, lines 25-33), followed by removal of the upper mold part 12; application of the resin pool; and reinsertion of the upper mold part 12, the examiner respectfully submits that the frictional hold of the lower molding part 13 on the movement constraining means 56 would prevent upward movement of the lower mold half 12 toward the upper mold half 13 as the upper mold half 13 is wetted by the resin pool. If it were otherwise, the spacing provided in the alignment step of Hwang would be destroyed. As such, the examiner respectfully submits that the rejections based on Hwang, and by extension those based on Martin et al., are proper and stand.

The applicant's remaining arguments are drawn to the contention that the modification of the Hwang reference with those of DeRozier and Morland et al. to teach alternative methods and means of constraining the movement of the lower die is improper because Hwang, DeRozier and Morland et al. "are directed to distinct lens processes involving different dynamics and potential shortcomings." It appears that the applicant is arguing that the combined references are non-analogous. In response, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, not only are the DeRozier and Morland et al. references in the field of applicant's endeavor (methods and apparatus for the formation of optical lenses by molding), but also reasonably pertinent to the particular problem at hand, i.e., methods and apparatus for constraining the movement of die members during molding. As such, the examiner respectfully submits that the combined references are analogous and result in a combination rendering those claims to which they are applied obvious.

(9)

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1734

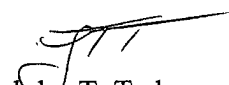
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

(10)

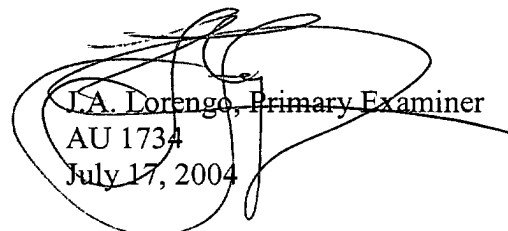
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (571) 272-1233. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yewebdar T. Tadesse, Examiner  
AU 1734  
July 17, 2004



J.A. Lorengo, Primary Examiner  
AU 1734  
July 17, 2004